

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
NORTHERN DIVISION

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UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPHINE THUNDERSHIELD

Defendant.

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CR. 16-10028-CBK-2

**MOTION FOR  
CONTINUANCE**

The undersigned attorney for Defendant Josephine Thundershield hereby moves the Court for its Order extending the trial setting of Tuesday, October 17, 2017, by at least 30 days, as well as all related pretrial deadlines. As grounds, Defendant states:

1. Defendants and the Government have been in discussions regarding a pretrial diversion in this matter. The primary prerequisite the Government set forth for a pretrial diversion was rehabilitation of the property at issue to the satisfaction of Standing Rock Child Protective Services.

2. On August 25, 2017, I was advised by my client that Raquel Franklin with Standing Rock Child Protection Services had inspected the property and deemed it fit to begin the process of reunifying my client with her children.

3. Due to her absence from the office and unavailability, I was unable to reach Ms. Franklin until September 11, 2017, to discuss her inspection of the property. At that time, she confirmed to me that the property had passed inspection and that CPS would be

starting the reunification process. This was confirmed again by Ms. Franklin to my client on September 21, 2017, and September 25, 2017. It is my understanding that CPS is in the process of setting a review hearing before the tribal court to place the children back with my client and Mr. Red Horse.

4. In furtherance of the discussions with the Government regarding pretrial diversion, I informed Mr. Morley of my discussion with Raquel Franklin that same day, September 11, 2017, and, upon Mr. Morley's request, provided him with photographs of the rehabilitated property on September 18, 2017.

5. The rehabilitation process was slow-going as my client and her co-defendant are economically disadvantaged, making it difficult for them to afford the materials necessary. They have been working spot jobs for local ranchers in an effort to raise additional funds, which they put towards repairs and updates to their home. Their efforts have resulted in a finding of habitability by Standing Rock CPS.

6. At this point, we are simply waiting on final approval by the Government of the pretrial diversion. It is my understanding that Pretrial Services would then need time to process the necessary paperwork for the pretrial diversion.

7. This continuance is requested for the purpose of additional time to finalize the pretrial diversion that has been discussed between the Defendants and the Government.

5. Defense counsel has advised the Defendant of this motion, its purpose, and her Constitutional and statutory right to a speedy trial, pursuant to 18 U.S.C. § 3161 *et seq.* Consent to the continuance has been signed by Defendant.

6. The Government through Assistant United States Attorney Troy Morley does not object to this motion.

7. The undersigned, further, represents to the Court that this motion is made neither for purposes of undue delay nor other improper reason. Counsel makes this request for the Defendant in order to have additional time for the Defendants, the Government, and Pretrial Services to finalize the pretrial diversion that has been discussed between the parties.

WHEREFORE, Defendant Josephine Thundershield requests that the court continue the trial, setting a time at least 30 days past October 17, 2017, and further, that all related deadlines be continued.

Dated at Aberdeen, South Dakota, this 27th day of September, 2017.

BANTZ, GOSCH & CREMER, L.L.C.

/s/ Justin M. Scott

Attorneys for Josephine Thundershield

305 Sixth Avenue S.E.

P.O. Box 970

Aberdeen, SD 57402-0970

(605) 225-2232

(605) 225-2497 (fax)

jscott@bantzlaw.com

### **CERTIFICATE OF SERVICE**

The undersigned, attorney for the Defendant, hereby certifies that on the 27th day of September, 2017, I caused the foregoing document to be filed electronically with the Clerk of Court through ECF, and that ECF will send an email notice of the electronic filing to the following:

Mr. Troy Morley  
Assistant United States Attorney  
P.O. Box 7240  
Pierre, SD 57501  
*Assistant US Attorney*  
*Troy.Morley@usdoj.gov*

BANTZ, GOSCH & CREMER, L.L.C.

/s/ Justin M. Scott

Attorneys for Josephine Thundershield

305 Sixth Avenue S.E.  
P.O. Box 970  
Aberdeen, SD 57402-0970  
(605) 225-2232  
(605) 225-2497 (fax)  
jscott@bantzlzlaw.com